

FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT RHODE ISLAND

2012 OCT 26 P 3 21

ANTHONY DIAS

U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

Plaintiff,

v.

Civil Action # _____

CA 12- 766 L

TMS SEACOD GmbH & CO . KG,
GERMAN TANKER SHIPPING
GmbH & CO., KG and
T/V SEACOD

Defendants,

PLAINTIFFS COMPLAINT
Parties and Jurisdiction

1. Plaintiff is a resident of Westport, Massachusetts.
2. The Defendant, TMS SEACOD GmbH & CO. KG at all times material hereto, owned and operated and controlled the T/V SEACOD. Personal Jurisdiction over the defendant, TMS SEACOD GmbH & CO. KG is based upon the defendant's transacting business within the State of Rhode Island.
3. The Defendant, GERMAN TANKER SHIPPING at all times material hereto, operated and or controlled the T/V SEACOD. Personal Jurisdiction over the defendant, GERMAN TANKER SHIPPING GmbH & CO. KG is based upon the defendant's transacting business within State of Rhode Island.
4. The defendant, T/V SEACOD is an ocean going tanker vessel that has made numerous voyages in and out of U.S. ports over the last several years, engaging in maritime commerce. This suit is filed against the vessel, *in Rem*.
5. Jurisdiction is based upon Diversity Jurisdiction under 28 U.S.C. §1332 and Admiralty jurisdiction of this court under 28 U.S.C. §1333.

FACTS

6. On or about October 31, 2009 Plaintiff was employed by Inspectorate America Corporation as an Inspector. His job duties required that he board vessels such as the T/V SEACOD, inspect the cargo holds, specifically petroleum cargos, of same vessel and take samples of the cargo for laboratory analysis, report any cargo discrepancies, errors or noteworthy conditions of the vessel and or cargo consistent with US laws and regulations.
7. On or about October 31, 2009 Plaintiff was onboard the T/V SEACOD when he was caused to fall and forcibly contact the coaming surrounding a cargo hatch, dislocating his left shoulder and tearing a rotator cuff.

**COUNT I
NEGLIGENCE
Anthony Dias v. TMS SEACOD**

8. Plaintiff incorporates each and every allegation of paragraphs 1through 7 as fully set forth herein.
9. That at the time of the subject incident the Plaintiff was lawfully on board said vessel and was carrying out his duties as an Inspector of petroleum cargo vessels.
10. That the conditions aboard the vessel were such that the defendant, through its crewmembers for whose negligence the defendant is legally responsible, knew or should have known about and had a duty to rectify. The defendant negligently failed to rectify the defective condition which proximately caused the plaintiff to slip fall and sustain a dislocated shoulder and torn rotator cuff.
11. As a result of said negligence, the Plaintiff suffered serious pain of body, mental anguish, required substantial medical care and attention, sustained an impairment of his earning capacity, and was otherwise injured as will be shown at trial.

WHEREFORE Plaintiff demands judgment against the Defendant, TMS SEACOD GmbH & CO. KG in the amount of \$1,000,000.00.

COUNT II

Anthony Dias v. GERMAN TANKER SHIPPING GmbH & Co.KG
Negligence

12. Plaintiff re-alleges and incorporates each and every allegation of Paragraphs 1-11 as fully set forth herein.
13. That at the time of the incident at issue the Plaintiff was lawfully aboard the vessel, carrying out his duties as a vessel inspector.
14. That the condition of area surrounding the coaming of the cargo hatch was defective and that the defendant, through its crew members for whose negligence the defendant is legally responsible, knew or should have known about and had a duty to rectify. The Defendant negligently failed to rectify said defective condition which proximately caused plaintiff to fall and sustain a dislocated shoulder and torn rotator cuff.
15. As a result of said negligence, the Plaintiff suffered serious pain of body, mental anguish, required medical attention, sustained an impairment of his earning capacity, and was otherwise injured, as will be shown at trial.

WHEREFORE Plaintiff demands judgment against the defendant, German Tanker Shipping GmbH & CO. KG in the amount of \$1,000,000.00.

**Count III
Negligence
Anthony Dias v. T/V SEACOD**

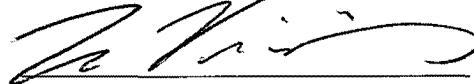
16. Plaintiff re-alleges and incorporates each and every allegation of paragraphs 1 through 7 as fully set forth herein.
17. That at the time of the incident the plaintiff was lawfully aboard said vessel carrying out his duties as an Inspector of petroleum cargo.
18. That condition at or near the coaming of the cargo hatch was defective and the vessel is legally responsible for such defective condition.
19. As a result of said defective condition the Plaintiff suffered serious bodily pain, mental anguish, required medical care and attention, sustained an impairment of his earning capacity and was otherwise injured as will be shown at trial.

WHEREFORE Plaintiff demands judgment against the defendant T/V SEACOD in the amount of \$1,000,000.00.

PLAINTIFF REQUESTS TRIAL BY JURY.

Respectfully submitted,
Anthony Dias
By his attorneys,

THOMAS J. HUNT & ASSOCIATES



Matthew Viveiros, Esq. # 7905
Thomas J. Hunt & Associates
18 North Water Street
New Bedford, MA 02740
(508)994-7300
(508)984-0755 (Fax)